



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,118	07/07/2003	Blaine D. Johs		8021

7590 02/23/2006
JAMES D. WELCH
10328 PINEHURST AVE.
OMAHA, NE 68124

EXAMINER

PHAM, HOA Q

ART UNIT PAPER NUMBER

2877

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

18

Office Action Summary	Application No. 10/613,118	Applicant(s) JOHS ET AL.	
	Examiner Hoa Q. Pham	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
4a) Of the above claim(s) 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-28 and 30 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/7/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. Drawings filed on 7/7/03 have been approved.

Election/Restrictions

2. Applicant's election with traverse of species (a) (claims 1-28 and 30) in the reply filed on 12/12/05 is acknowledged. The traversal is on the ground(s) that claim 29 recites structure of Fig. 3d which is similar to elected claims. **This is not found persuasive because claim 29 recites structure of Fig. 3a-3d, while claims 1-28 and 30 recite structure of figure 1b.**

The requirement is still deemed proper and is therefore made FINAL.

3. This application is in condition for allowance except for the following formal matters:
 - a. Claim 1, line 11, there is no antecedent basis for "**said at least first means**", this should be changed to -- **said means** --.
 - b. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. **Claim 2 depends on claim 1 recites that "non of said plurality of electromagnetic radiation source has polarization state setting means functionally associated therewith", while claim**

recites that “each thereof optionally having polarization state setting means functionally associated therewith”.

c. Claim 3, line 7, there is no antecedent basis for “**said source of polychromatic electromagnetic radiation**”.

d. Claim 7, line 11, “**beign**” should be changed to **–begin--**.

e. Claim 8, line 14, “said at least first means” should be changed to – **said means--**.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

4. Claims 1-28 and 30 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

There was no prior art found by the examiner that suggested modification or combination with the cited art so as to satisfy the combination of all the limitations in claims 1, 8, 11, 21, and 22.

As to claims 1 and 8, the prior art of record, taken alone or in combination, fails to disclose or render limitations “**a plurality of electromagnetic radiation source, each thereof optionally having polarization state setting means functionally associated**

Art Unit: 2877

therewith and means for accepting at least two electromagnetic beams which approach along different loci, and providing an electromagnetic beam which exits therefrom along a single locus”, in combination with the rest of the limitations of claims 1 and 8.

As to claim 11, the prior art of record, taken alone or in combination, fails to disclose or render limitations **“at least a first and second source of electromagnetic radiation source, each thereof optionally having polarization state setting means functionally associated therewith” and “said at least a first electromagnetic beam combining means being positioned with respect to first and second sources of electromagnetic radiation such that a polarized beam of electromagnetic radiation from said first source of electromagnetic radiation, when it is energized passes through said at least a first electromagnetic beam combining means, and such that a polarized beam of electromagnetic radiation from said second source of electromagnetic radiation when it is energized, reflects from said at least a first electromagnetic beam combining means”,** in combination with the rest of the limitations of claim 11.

As to claim 21, the prior art of record, taken alone or in combination, fails to disclose or render limitations **“at least a first and a second source of electromagnetic radiation, each thereof having polarization state setting means functionally associated therewith, said polarization state setting means functionally associated with said first and said second sources of**

electromagnetic radiation being at azimuthal orientations offset from one another", in combination with the rest of the limitations of claim 21.

As to claims 22, the prior art of record, taken alone or in combination, fails to disclose or render limitations **"first, second, third and fourth sources of electromagnetic radiation, each thereof having polarization state setting means functionally associated therewith, said polarization state setting means functionally associated with said first second, third and fourth sources of electromagnetic radiation being at orientations offset from one another"**, in combination with the rest of the limitations of claim 22.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Following references relate to spectroscopic ellipsometer and polarimeter systems: Johs et al (5,963,325; 5,946,098; 6,084,674; 5,666,201; 6,100,981; 6,118,537; 6,141,102); Herzinger et al (6,084,675) and Thompson et al (5,706,212).

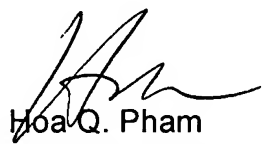
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (571) 272-2426. The examiner can normally be reached on 7:30AM to 6 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax

Art Unit: 2877

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hoa Q. Pham
Primary Examiner
Art Unit 2877

HP
February 20, 2006